

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION

UNITED STATES OF AMERICA ) DOCKET NO. 5:19-CR-22-1  
 )  
 vs. )  
 )  
 GREG E. LINDBERG, )  
 )  
 Defendant. )  
 )

TRANSCRIPT OF MODIFICATION OF CONDITIONS OF RELEASE  
BEFORE THE HONORABLE DAVID S. CAYER  
UNITED STATES MAGISTRATE JUDGE  
AUGUST 13, 2019

## APPEARANCES:

On Behalf of the Government:

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On Behalf of the Defendant:

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United States District Court  
Charlotte, North Carolina

## PROCEEDINGS

(Transcript of proceedings digitally recorded on  
August 13, 2019.)

4 THE COURT: United States versus Greg Lindberg.

5 Good morning, Ms. Tompkins.

6 MS. TOMPKINS: How are you?

7 THE COURT: I'm well.

8 || Mr. Stetzer.

9 MR. STETZER: Good morning, sir.

10 THE COURT: Ms. Tompkins, this is your motion to  
11 modify his conditions of pretrial release so I'll hear from  
12 you.

13 MS. TOMPKINS: Thank you, Your Honor.

14                   Yes, we are on for modification of Mr. Lindberg's  
15 conditions of release. There are four main points that I want  
16 to make this morning.

17 One is Mr. Lindberg was ordered to wear an ankle  
18 monitor on April 2nd when we came in for initial appearance.  
19 In practice, over the last four months that ankle monitor has  
20 proven to be more restrictive than necessary to ensure his  
21 appearance at trial.

22                   In addition -- and I'll talk a little bit more about  
23 that -- I'd like to talk about Mr. Lindberg's strong  
24 incentives to appear at trial. Since the first conversation  
25 that he had with the FBI almost a year ago last August,

1 Mr. Lindberg has maintained his innocence. He wants to have  
2 his day in court. He's motivated to have his day in court.  
3 This has not changed during our review of discovery up to this  
4 point. We have a strong case against the allegations and  
5 Mr. Lindberg very much looks forward to clearing his name.

6 There have been issues with discovery, technical  
7 issues, delay, and some volume that were unanticipated when we  
8 agreed to the conditions of release four months ago. That --  
9 those I'll talk about if the Court is interested, but those  
10 have resulted in the necessity for us to delay the trial well  
11 beyond what we would have thought four months ago when we  
12 first came in and agreed to the conditions of release.

13 Separately, then, from the electronic monitoring  
14 issue, Mr. Lindberg was also ordered to have random drug  
15 screening. Mr. Lindberg neither drinks or uses drugs and we  
16 would simply ask the Court to remove that as a condition of  
17 his release as being unnecessary.

18 So I'd like to argue the points.

19 So as you know, Your Honor, federal law requires  
20 that the Court use the most least -- the least restrictive  
21 means necessary to ensure Mr. Lindberg's appearance at court.  
22 In April Mr. Lindberg turned in his passport. He was ordered  
23 not to travel internationally, and has not and has no  
24 intention to travel internationally.

25 Mr. Lindberg has access to two private planes.

1 Those planes are under charter now. He doesn't use them in  
2 any way. He also has a boat that's also under charter which  
3 he also does not use.

4 So other than that restriction, the -- turning in  
5 the passport and international travel, Mr. Lindberg has no  
6 other restrictions on his travel in the United States. The  
7 only restriction he has is to get permission from his pretrial  
8 services officer.

9 He's on pretrial supervision in the Southern  
10 District of New York where he lives. He has complied. His  
11 pretrial officer has stated to us that he has been a model  
12 client. He has no trouble with Mr. Lindberg's travel in the  
13 way that he has sought permission and gotten permission to  
14 travel, and he has no objection to the ankle monitor being  
15 removed as a condition of his supervision.

16 He does, however -- and I have an email to that  
17 effect. If Your Honor would like to see that, I'll hand it  
18 up. He does note, however, that he -- this is not his  
19 jurisdiction and so he defers to his local pretrial services  
20 officer for her point of view. We contacted her. She also  
21 had no objection, but said she would leave it, obviously, to  
22 the Court's decision. So pretrial, we would contend to the  
23 Court, has no issue with removing the ankle monitor.

24 One of the primary reasons that we think it's --  
25 that the ankle monitor is not the least restrictive means to

1 ensure Mr. Lindberg's appearance at trial is you would  
2 normally see an ankle monitor used in instances where there is  
3 a geographic restriction. The ankle monitor provides the  
4 government with a level of electronic surveillance that they  
5 need. If Mr. Lindberg was ordered to house arrest, the  
6 electronic monitoring would alert if he left that area of  
7 geographic restriction.

8                   In practice, Mr. Lindberg has no geographic  
9 restriction. Therefore, the ankle monitor doesn't engage in  
10 any way that informs the government in a manner that would,  
11 frankly, help them to know where he is or whether or not he  
12 was attempting to flee, which we would argue he is not.

13                   Therefore, Mr. -- you know, the -- Mr. Lindberg's  
14 ankle bracelet really acts as a stalking device only. It does  
15 not act in the usual way that you would see an electronic  
16 monitor. We had that conversation when we first came in here  
17 in April with Judge Keesler about how it was going to be used;  
18 and at that time the government said, "We are not seeking a  
19 geographic limitation, but we want the ankle monitor."

20                   That was before we had seen the indictment, we had  
21 seen any discovery. We agreed to it. And in the four months  
22 hence, we simply want to come back to the Court and say it, in  
23 practice, is impractical and it doesn't add to the protection  
24 that the government, we think, sought in April to ensure  
25 Mr. Lindberg's appearance.

1                   So after four months we wanted to come back and say  
2 the bracelet gives the government no additional information  
3 that it is seeking. It is not being used in the normal set of  
4 circumstances.

5                   Mr. Lindberg's incentive to appear is very strong.  
6 Like his three co-defendants, he has pled guilty. The case is  
7 going to trial -- I mean pled not guilty. Pled not guilty.  
8 He wants his day in court and he will have his day in court.  
9 As I said initially, he has maintained his innocence since the  
10 first day that the case came to light and he spoke to the FBI.

11                  The Court may know that these allegations involve  
12 campaign contributions that Mr. Lindberg made to the North  
13 Carolina Department of Insurance Commissioner. We've now  
14 reviewed some of that discovery, including audio and video  
15 evidence, and we contend that it's far from an open-and-shut  
16 case. In fact, there are multiple examples on the audio and  
17 video where Mr. Lindberg is in conversations with the  
18 insurance commissioner where Mr. Lindberg insists on  
19 compliance with the law. Those are not the actions of a  
20 person who wishes to flee. This -- these are the -- those are  
21 the words of a person who now wishes to stand and defend  
22 himself and stand and fight. Mr. Lindberg is extremely  
23 motivated to be here to go to trial and to be exonerated of  
24 these charges. He has no incentive to flee.

25                  The discovery in the case has turned out to be much

1 more voluminous than we anticipated. In fact -- in technical  
2 difficulties and delays. And at every turn, even with the  
3 audio and video, we got that about three weeks after his  
4 initial appearance, and there were -- there was weeks' worth  
5 of back and forth about making the audio and video work just  
6 because of technical difficulties.

7           We've gotten maybe four different groups of  
8 discovery from the government, the bulk of which has come in  
9 July and in July we received approximately 1.2 million  
10 documents. This obviously has caused us to ask the Court for  
11 a delay in the trial. We are currently on the November trial  
12 calendar. Not sure whether or not we'll make that -- that  
13 calendar for trial or whether we'll -- there will be necessity  
14 for a further delay. And I bring that to light because of the  
15 length of time that Mr. Lindberg is on a level of pretrial  
16 supervision that really exceeds the standard for ensuring his  
17 appearance in court.

18           So for these reasons, Your Honor, we ask for his  
19 conditions of release to be modified in those two ways: To  
20 remove the ankle bracelet and to take away the necessity for  
21 him to have random drug testing.

22           And I will hand up, Your Honor, email traffic from  
23 his local Pretrial Services Officer Sarah Wright and from  
24 Marlon Ovalles who is his pretrial services officer in the  
25 Southern District of New York.

1           Yes, I'll give them a copy.

2           (Document tendered to the Court.)

3           MS. TOMPKINS: Thank you, Your Honor.

4           And, Your Honor, if I just may, just to put into the  
5 record, what Officer Ovalles said on page 3 of his email, he  
6 says, "If this case were to be stemming from the Southern  
7 District of New York, I would say that pretrial consents to  
8 the removal of the location monitoring as well as the drug  
9 testing condition. I would also recommend that he be allowed  
10 to travel throughout the continental United States without  
11 prior approval from pretrial services. However, since this  
12 case stems from the Western District of North Carolina, I  
13 defer to Officer Sarah Wright on their position on the  
14 request. I've included Officer Wright in my response."

15           Officer Wright's response was, "No objection. We  
16 would leave it up to the Court."

17           Thank you.

18           THE COURT: What does the government say?

19           MR. STETZER: The government opposes this request,  
20 Your Honor. The reason he's on such -- given such latitude on  
21 his travel is because of the GPS monitor. The reason the  
22 government didn't seek detention in this matter is because of  
23 the agreement for the GPS monitor.

24           If we go to the threshold question for Your Honor  
25 about reopening this detention hearing, is first we'd have to

1 look at whether there were facts that were unknown to the  
2 movant at the time. And those facts were not unknown. Those  
3 facts were obvious. That this case wouldn't be resolved in  
4 under four months was certainly obvious to counsel as esteemed  
5 as Ms. Tompkins. In fact, it was so obvious that we  
6 negotiated that as part of our recommendation not to seek  
7 detention. We talked about the travel restrictions and no  
8 seeking detention in exchange for the GPS monitoring.

9 Ms. Tompkins specifically -- and I say this not  
10 because I believe the Court is bound by our agreement, but  
11 because it shows how foreseeable and how known these facts  
12 were. Ms. Tompkins sent me a letter saying take a look at  
13 these conditions. It includes the conditions that we're  
14 currently under now, but also said that after a period of  
15 compliance with the GPS monitoring, we can revisit that with  
16 the Court. The government responded that was a nonstarter and  
17 the primary reason we weren't seeking detention was because of  
18 the GPS monitor. And so that's important to show that the  
19 facts -- these are not new facts or unknown.

20 If we deal with changes or information that would  
21 deal with flight, well, first, I think if the Court is going  
22 to reopen detention status, the Court should also revisit the  
23 travel restrictions. If the GPS monitoring is in jeopardy,  
24 then that should be considered by the Court.

25 The Court should also consider, and I would ask the

1 Court to consider, if the GPS is in jeopardy, to detain this  
2 defendant until we have our trial.

3 The circumstances that have changed are more  
4 concerning regarding the defendant's flight. I have informed  
5 counsel from the beginning that I believe this defendant would  
6 be a flight risk and that's why we insist on the GPS  
7 monitoring.

8 As Ms. Tompkins mentioned, the defendant does have  
9 access to -- owns a private jet that is capable of traveling  
10 anywhere in the world. The yacht mentioned is a 214-foot  
11 ocean-going vessel that's registered in the Cayman Islands, so  
12 this defendant can actually flee by land or by sea.

13 He has -- as of 2016 he had 115 foreign bank  
14 accounts, including in Canada, India, Ireland, Malta, the  
15 Philippines, England, and the Cayman Islands.

16 When he was confronted by the FBI with these  
17 allegations, within 30 days of that is when he bought this  
18 214-foot vessel. And shortly thereafter he listed just about  
19 all of his assets for sale, including his residences in North  
20 Carolina, Key West, and properties in Idaho, so he immediately  
21 began liquidating his assets. We had a conversation with Ms.  
22 Tompkins about that and were given some assurances. That  
23 raises the level of concern for the government given now that  
24 we want to take off the GPS monitoring.

25 Mr. Lindberg is also aware of an ongoing parallel

1 investigation involving his business structure. He is not a  
2 resident of the Western District. We capitulated in the  
3 negotiation to allow him to reside in New York in that  
4 district. He had to pick a district. But he also had at that  
5 time when we talked about it, he had significant business  
6 interests in North Carolina and elsewhere. Since then his  
7 insurance companies have been placed in rehabilitation by the  
8 Department of Insurance. The insurance commissioner says he  
9 wrote to shareholders or to policyholders. He took that  
10 action after determining that the long-term liquidity of the  
11 investment portfolios of the company had deteriorated to the  
12 point that the Department of Insurance needed to act to  
13 protect the policyholders of the company.

14 He's facing a guideline level of 32 with a sentence  
15 of 121 to 151 months in prison. So our contention is this  
16 defendant has the resources to flee and flee well, unlike the  
17 vast majority of defendants who appear in front of you.

18 In addition, if he was to flee, it would cause  
19 irreparable harm to the policyholders and the states that  
20 would have to bail out his insurance companies if he fled and  
21 took those assets with him.

22 Our evidence in the case involves recordings where  
23 the Department of Insurance Commissioner Mike Causey was so  
24 concerned at the behavior of Mr. Lindberg a year and a half  
25 ago that he came to the U.S. Attorney's Office and said, "I

1 think this guy is trying to bribe me." That's what started  
2 the investigation.

3 After that point, when Commissioner Causey met with  
4 Lindberg, those recordings -- those meetings were recorded.  
5 So we have the quid pro quo that we've alleged on tape by  
6 Mr. Lindberg on more than one occasion, so we believe our case  
7 is strong.

8 The gist of this case, as we allege, is that because  
9 Mr. Lindberg did not like the way and the level he was being  
10 regulated by the Department of Insurance, by the chief  
11 regulator on his review, essentially, he was willing to pay  
12 \$2 million to have that person removed as his regulator. So  
13 our contention is if he's willing to pay \$2 million not to  
14 face regulation, what would he be willing to do not to face a  
15 lengthy prison sentence?

16 So we would -- we would strongly oppose him being  
17 taken off the GPS monitoring. And we would ask if the Court  
18 is considering that, to also consider what -- what would be  
19 appropriate to make sure this defendant does appear for trial,  
20 and I think that would have to include adding travel  
21 restrictions and potentially detention.

22 THE COURT: Ms. Tompkins.

23 MS. TOMPKINS: Well, Your Honor, the Court is always  
24 able to review conditions of release, whether the government  
25 agrees with that or not.

1           As I said, when we did make that agreement with the  
2 government, we hadn't seen the indictment. We hadn't seen any  
3 discovery. It was really sort of a package that we agreed on  
4 before we knew what the facts of the case were. We obviously  
5 disagree with the characterization of the strength of the  
6 case, as apparently the other three co-defendants do. The  
7 case is set for trial.

8           Listen, I think, you know, the liquidating assets  
9 argument is spurious. As I said to the government early on,  
10 Mr. Lindberg lives in New York. He's put assets up, his home,  
11 for sale, as people do. It's not an indication at all of him  
12 fleeing, and I think the government was -- was assuaged by  
13 that months ago and it's unfair to bring it up today.

14           The idea of the insurance companies being in  
15 rehabilitation is really, I think, not a huge issue here, but  
16 I would point out to the Court that the insurance companies  
17 being in rehabilitation take those assets outside of  
18 Mr. Lindberg's control and he doesn't have access to money or  
19 assets from the insurance companies which really lessens the  
20 government's concerns about Mr. Lindberg using his wealth to  
21 flee.

22           And again, the -- his planes and his boat are under  
23 a -- are chartered. The government has tracked his planes and  
24 he's not on them. I mean, he doesn't use them, so these  
25 are -- these are -- and they have the ability to track his

1 planes.

2                   My point here today, the main point, is that for  
3 four months Mr. Lindberg has generally been two or three  
4 places, New York where he lives, North Carolina where his  
5 businesses are. The insurance companies are not his only  
6 business interests. He has -- he has dug in in Durham as a  
7 businessman. He goes -- he has occasional business trips  
8 elsewhere in the country.

9                   His pretrial services officer has had not a speck of  
10 trouble with him and has no concerns that he is a flight risk.  
11 I think that's compelling to this Court that the two  
12 professionals who are -- who are charged with monitoring him  
13 are comfortable with Mr. Lindberg's ability to make his way to  
14 court when required to.

15                   So the parallel investigation has been known to  
16 Mr. Lindberg and to counsel since day one. That's not a  
17 changed circumstance. There's nothing about that that coming  
18 in today is any bigger of a risk than it was four months ago.

19                   So I think that the practical situation here is that  
20 four months in the electronic monitoring is simply not being  
21 used in an effective way that assists the government or the  
22 Court to get Mr. Lindberg in court. It feels symbolic of  
23 control but not, in fact, helpful in making sure that  
24 Mr. Lindberg shows up for court; and, like his pretrial  
25 services officers, we ask the Court to remove that as a

1 condition of his release.

2 THE COURT: Mr. Stetzer, anything further?

3 MR. STETZER: No, Your Honor.

4 THE COURT: All right. The Court is going to deny  
5 the motion.

6 (End of proceedings.)

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1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF NORTH CAROLINA  
3 CERTIFICATE OF REPORTER

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5  
6 I, Cheryl A. Nuccio, Federal Official Realtime Court  
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16 Dated this 15th day of August 2019.

17

18 s/Cheryl A. Nuccio

19

Cheryl A. Nuccio, RMR-CRR  
Official Court Reporter

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